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8
9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11
12 DFSB KOLLECTIVE CO. LTD., a
Korean corporation,
13 Plaintiff,
14
15 vs.
16 CJ E&M, INC., a Korean corporation;
CJ E&M AMERICA, INC., a California
17 corporation,
18 Defendant.

Case No.

CV 15 80265 MISC.

PLAINTIFF DFSB KOLLECTIVE
CO. LTD'S MOTION TO COMPEL
THIRD-PARTY BEATS MUSIC,
LLC TO PRODUCE DOCUMENTS
IN RESPONSE TO SUBPOENA

HRL

Hearing date & time: TBD

Pretrial Conference: 2/22/2016

Trial Date: 3/1/2016

[For case pending in
the United States District Court
for the Central District of California
Case No. 2:15-cv-01650-SVW-FFM]

572710.1

PLAINTIFF DFSB KOLLECTIVE CO. LTD'S MOTION TO COMPEL THIRD-PARTY BEATS MUSIC, LLC
TO PRODUCE DOCUMENTS IN RESPONSE TO SUBPOENA

FAKED

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that plaintiff DFSB Kollektive Co. Ltd. will and
3 hereby does apply to the Court for an Order on a date and time to be determined by
4 the Court.

5 Pursuant to Fed. R. Civ. P. 45(d)(2)(B)(i), plaintiff moves to compel third-
6 party Beats Music, LLC (“Beats”) to produce documents in response to a subpoena
7 served on September 16, 2015. These documents are relevant to an action pending
8 in the Central District of California; but—weeks after the deadline for producing
9 responsive documents—Beats continues to refuse to produce responsive documents.
10 Consequently, the Court should compel Beats to produce documents responsive to
11 plaintiff’s subpoena within seven calendar days of the Court’s order.

12 This motion is based upon this Notice of Motion, the Memorandum of Points
13 and Authorities in support thereof, the Declaration of Jonathan Gottfried, the files in
14 this action, and all other matters properly presented to the Court prior to its ruling.

15
16 DATED: November 4, 2015

BROWNE GEORGE ROSS LLP
Keith J. Wesley
Andrew A. August
Jonathan L. Gottfried

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19
20 By /s/ Jonathan Gottfried
Jonathan Gottfried
21 Attorneys for Plaintiff
22 DFSB Kollektive Co. Ltd.
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Nidec Corp. v. Victor Co. of Japan,
249 F.R.D. 575 (N.D. Cal. 2007) 3, 8

1 **I. INTRODUCTION**

2 Plaintiff respectfully moves the Court to order third-party Beats Music, LLC
3 (“Beats”) to produce documents in response to a subpoena served on September 16,
4 2015. This case (pending in the Central District of California) involves defendants’
5 copyright infringement and violations of the Digital Millennium Copyright Act as a
6 result of defendants’ distribution via Beats of sound recordings to which plaintiff had
7 an exclusive license. Plaintiff’s subpoena on Beats sought documents related to the
8 distribution of the music at issue. But, after almost two months, Beats has produced
9 only one responsive spreadsheet and twenty-five pages of objections. The parties met
10 and conferred for several weeks, during which Beats’ counsel claimed that their client
11 was unable to identify relevant custodians and repeatedly asked plaintiff’s counsel to
12 describe what documents were being sought (even though the document requests were
13 clearly stated in the subpoena). Moreover, Beat’s counsel objected that plaintiff
14 should pursue the same discovery from defendants even though: (1) several
15 categories of requested documents involve internal Beats documents or
16 communications between Beats and non-parties, and (2) for those documents that
17 defendants may possess, plaintiff has already requested those documents from
18 defendants (whose anemic production raises questions that can only be answered by
19 discovery on Beats).

20 In order to stop Beats’ incessant delays and to ensure a complete response to
21 the subpoena, the Court should compel Beats to produce documents responsive to
22 plaintiff’s subpoena within seven calendar days of the Court’s order.

23 **II. BACKGROUND ON THE CASE**

24 This case, which is scheduled for trial in March, involves copyright
25 infringement and violations of the Digital Millennium Copyright Act against
26 CJ E&M, Inc. and CJ E&M America, Inc. (“defendants”) arising from the distribution
27
28

1 in the United States of Korean music by fifteen artists. (Ex. 7 ¶ 2)¹ Plaintiff alleges
2 that, without authorization, defendants, via a third party (MediaNet), “distributed to
3 the Beats Music service (a California-based online music service) these sound
4 recordings,” which were then made available to American consumers. *Id.* Plaintiff
5 further alleges that defendants, via a third party (MediaNet), provided to Beats
6 improper copyright management information, including International Standard
7 Recording Codes and Universal Product Codes, which are unique identifiers for songs
8 and albums. *Id.* ¶ 27. According to the Complaint, “Beats incorrectly identifies
9 ‘CJ E&M’ or another Korean company, Neowiz Internet, as the owner of the
10 copyrights for these sound recordings and the underlying works.” *Id.* ¶ 28.

11 Because of the relevance of Beats to plaintiff’s allegations against defendants,
12 plaintiff served a subpoena on Beats for documents related to the allegations in the
13 Complaint. These included: internal Beats documents or communications with
14 MediaNet or defendants related to the works (identified by song title and artist) and
15 documents regarding copyright management information for the works. (Ex. 2)
16 Plaintiff also sought a representative to be deposed relating to these issues.² *Id.*

17 **III. DISCOVERY IN DISPUTE**

18 As indicated below, Beats objected to every one of plaintiff’s document
19 requests.³

22 ¹ All exhibits are attached to the accompanying Declaration of Jonathan Gottfried
23 (“Gottfried Decl.”).

24 ² Plaintiff is not seeking to compel, at this time, a witness from Beats to be deposed.
25 Instead, plaintiff will review any documents produced by Beats and determine the
26 necessity of pursuing a deposition based on those documents. Plaintiff is not waiving
its right to move to compel a witness if it determines that a deposition is necessary in
light of any document production.

27 ³ Plaintiff’s subpoena and Beats’ responses are attached as Exhibits 2 and 3.

1 **PLAINTIFF'S DOCUMENT REQUEST NO. 1:**

2 All DOCUMENTS or COMMUNICATIONS relating to the WORKS.⁴

3 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 1:**

4 Repondent [*sic*] incorporates the foregoing General Objections by reference.

5 Repondent further objects to this specific request to the extent the requested
6 documents are attainable through party discovery, such that it would be unduly
7 burdensome for Respondent to produce those documents. *See Haworth, Inc. v.*
8 *Herman Miller, Inc.*, 998 F.2d 975, 978 (Fed. Cir. 1993). Here, the request
9 necessarily demands documents that would be available to defendants to the
10 litigation, including, but not limited to, any communications or documents shared
11 between defendants and Repondent that would be responsive to this request. These
12 documents are available through party discovery, and it is improper to subpoena a
13 third party for them. *See Nidec Corp. v. Victor Co. of Japan*, 249 F.R.D. 575, 577
14 (N.D. Cal. 2007) ("There is simply no reason to burden nonparties when the
15 documents sought are in possession of the party defendant."); *see also Moon v. SCP*
16 *Pool Corp.*, 232 F.R.D. 633, 638 (C.D. Cal. 2005) ("[T]hese requests all pertain to
17 defendant, who is a party, and, thus, plaintiffs can more easily and inexpensively
18 obtain the documents from defendant, rather than from [the] nonparty."). Repondent
19 further objects to the request for "[a]ll documents or communications" as it is vague,
20 overbroad, and unduly burdensome and demands that Repondent make a legal
21 determination as to what the request means and contains within its scope. In light of
22 the above, Repondent objects to this request as overly broad, duplicative,
23 unnecessary, and unduly burdensome to Respondent, a non-party to this litigation.
24 *See High Tech Med. Instrumentation, Inc. v. New Image Indus., Inc.*, 161 F.R.D. 86,
25 88 (N.D. Cal. 1995) ("nonparties subject to discovery requests deserve extra

26
27 ⁴ "WORKS" is defined as "the musical works listed in Exhibit 1."
28

1 production from the courts.”). Repondent further objects to this request to the extent
2 that it seeks information not relevant to the claims or defenses of any party to this
3 action, and to the extent that it is not reasonably calculated to lead to the discovery of
4 admissible evidence. Repondent further objects to this request to the extent it calls for
5 the disclosure of information or documents protected by the attorney-client privilege
6 and any other applicable privilege or protection.

7 Subject to and without waiving the foregoing objections, Repondent responds
8 as follows: Repondent has met and conferred with subpoenaing counsel regarding the
9 Subpoena and its requests, and will continue to do so.”

10 **PLAINTIFF’S DOCUMENT REQUEST NO. 2:**

11 All COMMUNICATIONS with CJ E&M, Inc. (or anyone acting on its behalf)
12 regarding Korean music that includes or relates to any of the WORKS.

13 **BEATS’ RESPONSE TO DOCUMENT REQUEST NO. 2:**

14 *Same as response to Document Request No. 1*

15 **PLAINTIFF’S DOCUMENT REQUEST NO. 3:**

16 All COMMUNICATIONS with CJ E&M America, Inc. (or anyone acting on
17 its behalf) regarding Korean music that includes or relates to any of the WORKS.

18 **BEATS’ RESPONSE TO DOCUMENT REQUEST NO. 3:**

19 *Same as response to Document Request No. 1*

20 **PLAINTIFF’S DOCUMENT REQUEST NO. 4:**

21 All COMMUNICATIONS with MusicNet, Inc. (d/b/a MediaNet Digital, Inc.)
22 (or anyone acting on its behalf) regarding Korean music that includes or relates to any
23 of the WORKS.

24 **BEATS’ RESPONSE TO DOCUMENT REQUEST NO. 4:**

25 *Same as response to Document Request No. 1*

26 **PLAINTIFF’S DOCUMENT REQUEST NO. 5:**

27 DOCUMENTS sufficient to evidence any payments received or made in
28 connection with the WORKS since March 6, 2012.

1 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 5:**

2 *Same as response to Document Request No. 1*

3 **PLAINTIFF'S DOCUMENT REQUEST NO. 6:**

4 All COMMUNICATIONS with CJ E&M, Inc. (or anyone acting on its behalf)
5 regarding this case.

6 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 6:**

7 *Same as response to Document Request No. 1*

8 **PLAINTIFF'S DOCUMENT REQUEST NO. 7:**

9 All COMMUNICATIONS with CJ E&M America, Inc. (or anyone acting on
10 its behalf) regarding this case.

11 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 7:**

12 *Same as response to Document Request No. 1*

13 **PLAINTIFF'S DOCUMENT REQUEST NO. 8:**

14 All COMMUNICATIONS with CJ E&M, Inc. (or anyone acting on its behalf)
15 in which it represented that it was the exclusive distributor or content aggregator or
16 curator or programmer of Korean pop music in the United States.

17 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 8:**

18 *Same as response to Document Request No. 1*

19 **PLAINTIFF'S DOCUMENT REQUEST NO. 9:**

20 All COMMUNICATIONS with CJ E&M America, Inc. (or anyone acting on
21 its behalf) in which it represented that it was the exclusive distributor or content
22 aggregator or curator or programmer of Korean pop music in the United States.

23 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 9:**

24 *Same as response to Document Request No. 1*

25 **PLAINTIFF'S DOCUMENT REQUEST NO. 10:**

26 All COMMUNICATIONS with MusicNet, Inc. (d/b/a MediaNet Digital, Inc.)
27 (or anyone acting on its behalf) regarding this case.

28

1 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 10:**

2 *Same as response to Document Request No. 1*

3 **PLAINTIFF'S DOCUMENT REQUEST NO. 11:**

4 Digital files that contain recordings of the WORKS.

5 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 11:**

6 *Same as response to Document Request No. 1*

7 **PLAINTIFF'S DOCUMENT REQUEST NO. 12:**

8 All DOCUMENTS (including any documents identifying the International
9 Standard Recording Codes, Universal Product Codes or copyright information) and
10 digital files provided by MusicNet, Inc. (d/b/a MediaNet Digital, Inc.), CJ E&M, Inc.
11 or CJ E&M America, Inc. in connection with the WORKS.

12 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 12:**

13 *Same as response to Document Request No. 1*

14 **PLAINTIFF'S DOCUMENT REQUEST NO. 13:**

15 All DOCUMENTS relating to trial periods, promotions, or give-aways of the
16 WORKS.

17 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 13:**

18 *Same as response to Document Request No. 1*

19 **PLAINTIFF'S DOCUMENT REQUEST NO. 14:**

20 DOCUMENTS sufficient to indicate the number of downloads or streamings of
21 the WORKS since March 6, 2012.

22 **BEATS' RESPONSE TO DOCUMENT REQUEST NO. 14:**

23 *Same as response to Document Request No. 1*

24 **IV. ARGUMENT**

25 **A. Beats' Counsel Repeatedly Procrastinated in Complying with the**
26 **Subpoena.**

27 The following timeline indicates plaintiff's efforts to obtain compliance with
28 the subpoena and the delay imposed by Beats' counsel:

- 1 • *September 16, 2015*: Subpoena served on Beats, with a reply date of
2 October 5, 2015 (Ex. 2)
- 3 • *September 24, 2015*: Telephonic conference between Beats' and
4 plaintiff's counsel. At the request of Beats' counsel: (1) plaintiff's
5 counsel extends the deadline for responding to the subpoena by one week
6 (until October 12, 2015); (2) plaintiff's counsel agrees to postpone any
7 deposition until after the document production on October 12; and
8 (3) plaintiff's counsel agrees to identify those artists on Exhibit 1 (which
9 contains 15 artists) that are most likely to have been distributed on Beats.
10 This agreement is summarized in an email exchange between counsel.
11 (Ex. 1)
- 12 • *October 12, 2015*: Beats responds to subpoena with 25 pages of
13 boilerplate objections. (Ex. 3)
- 14 • *October 15, 2015*: Beats produces a single page in response to the
15 subpoena. (Ex. 5)
- 16 • *October 19, 2015*: Plaintiff's counsel sends meet-and-confer
17 communication. (Ex. 4)
- 18 • *October 21, 2015*: The parties engage in a telephonic conference. Beats'
19 counsel agrees to consult with client to determine whether it will produce
20 additional documents. (Gottfried Decl. ¶ 9)
- 21 • *October 27, 2015*: Plaintiff's counsel follows up with Beats' counsel,
22 asking whether Beats will produce responsive documents. (Ex. 1)
23 Beats' counsel responds that his "investigation is ongoing" and—despite
24 the document requests in the subpoena—asks plaintiff's counsel to
25 identify "the documents you are seeking." *Id.*
- 26 • *November 2, 2015*: Weeks after the deadline for responding to the
27 subpoena, Beats' counsel states that his client will begin to conduct a
28 search for certain categories of document and may produce documents at
some, unspecified point. (Ex. 1) There is no explanation as to why
Beats waited until several weeks after the extended subpoena deadline in
order to begin to search for documents. Plaintiff's counsel asks Beats'
counsel to: (1) commit to a deadline by which they will produce
responsive documents, and (2) confirm that they are producing
documents responsive to all requests in the subpoena. *Id.* Beats' counsel
declines to commit to a timeframe for producing documents, declines to
confirm that they are responding to all requests in the subpoena (and,
again, asks plaintiff's counsel to re-state the document requests in the
subpoena), and objects to the subpoena as improper. *Id.*

- 1 • *November 4, 2015*: Plaintiff files this motion, three weeks after the
2 extended subpoena deadline and after several weeks of unsuccessful
3 meet and confers.

4 **B. Beats' Objections Are Meritless.**

5 Beats asserted identical objections to every document request, none of which
6 has merit.

- 7 1. *Beat Incorrectly Objects That It Need Not Produce Responsive*
8 *Documents Because They Can Be Obtained from a Party.*

9 For at least three reasons, this objection fails. *First*, several of the requests
10 (e.g., RFP Nos. 1, 4, 10, 11, 12, 13) involve Beats' communications with third parties
11 (e.g., MediaNet) or internal documents. There is no reason to believe that parties to
12 this case possess these documents. *Second*, plaintiff has pursued discovery on
13 defendants regarding their communications with Beats...to little avail. See Ex. 6 at
14 RFP No. 5 ("All COMMUNICATIONS between YOU and Beats Music service (or
15 any affiliate thereof) RELATING to any song recordings listed in Exhibit 1 of the
16 Complaint."); RFP No. 20 ("ALL DOCUMENTS RELATING to any and all
17 contracts, agreements and press releases between defendant CJ E&M, Inc. and the
18 Beats Music service."). Defendants' anemic production raises questions as to its
19 completeness, which plaintiff can only confirm by determining whether Beats
20 possesses additional documents. *Third*, plaintiff should be allowed to obtain
21 discovery on communications between Beats and defendants because Beats may
22 possess relevant documents that defendants no longer possess. For example, prior to
23 this litigation, defendants were not obliged to preserve relevant evidence (including
24 any communications with Beats). Beats cannot avoid complying with the subpoena
25 by claiming that defendant should have preserved evidence that Beats possesses. Nor
26 can Beats refuse to comply with the subpoena by claiming (without the support of any
27 authority) that—in order to obtain responsive documents—plaintiff must first prove
28 that Beats has a document that defendants no longer possess. That makes little sense:

1 it is uncommon for a party to know about the existence of a document that no one has
2 ever produced.

3 Beats cites three cases in support of its objection, but none of them is pertinent
4 because: (1) the party had not pursued discovery on the opposing party prior to
5 pursuing discovery on a non-party, and/or (2) the party was pursuing specific
6 documents (e.g., a settlement agreement) whose possession by the opposing party
7 could easily be confirmed. *See Haworth, Inc. v. Herman Miller, Inc.*, 998 F.2d 975,
8 978 (Fed. Cir. 1993) (upholding denial of defendant's motion to compel discovery
9 from third party of settlement agreement with plaintiff where defendant had not
10 attempted to obtain agreement from plaintiff); *Nidec Corp. v. Victor Co. of Japan*,
11 249 F.R.D. 575, 577 (N.D. Cal. 2007) (denying plaintiff's motion to compel certain
12 patent assessments provided by defendants to third parties); *Moon v. SCP Pool Corp.*,
13 232 F.R.D. 633, 638 (C.D. Cal. 2005) ("Since plaintiffs have not shown they have
14 attempted to obtain these documents from defendant, the Court finds that, at this time,
15 requiring nonparty KSA to produce these documents is an undue burden on nonparty
16 KSA.").

17 2. *Beats Is Incorrect to Claim that the Subpoena Seeks Irrelevant*
18 *Documents.*

19 As detailed below, each of plaintiff's document requests is proportional to the
20 needs of the case and the amount in controversy, appropriate in light of the parties'
21 relative access to information and resources as well as the importance of discovery in
22 resolving the issues. Furthermore, the benefit of the requested discovery outweighs
23 any burdens.

24 a. **DOCUMENT REQUEST NO. 1 ("All DOCUMENTS or**
25 **COMMUNICATIONS relating to the WORKS.")**

26 This case involves defendants' distribution, via Beats (or perhaps via
27 MediaNet, which then provided the data to Beats), of Korean sound recordings to
28 which plaintiff had exclusive distribution rights. (Ex. 7 ¶¶ 2, 27-28) The "works" at

1 issue consist of specific songs by fifteen Korean artists. (*Id.* at Ex. 1) The statutory
2 damages exceed hundreds of thousands of dollars. Consequently, documents in
3 Beats' possession regarding these Korean songs are relevant to this case.
4 Furthermore, although there are potentially hundreds of songs at issue, there are only
5 fifteen artists. Plaintiff suspects (though is not certain) that Beats only distributes a
6 handful of these artists. It should be easy for a digital music platform such as Beats to
7 quickly ascertain whether they have information regarding these fifteen Korean
8 artists. Beats has not provided any reason why it would be unduly burdensome to
9 produce responsive documents.

10 **b. DOCUMENT REQUEST NO. 2 ("All**
11 **COMMUNICATIONS with CJ E&M, Inc. (or anyone**
12 **acting on its behalf) regarding Korean music that**
13 **includes or relates to any of the WORKS.")**

14 **&**

15 **DOCUMENT REQUEST NO. 3 ("All**
16 **COMMUNICATIONS with CJ E&M America, Inc. (or**
17 **anyone acting on its behalf) regarding Korean music**
18 **that includes or relates to any of the WORKS.")**

19 For the reasons discussed above, communications with defendants regarding
20 the works at issue are relevant to the issues of copyright infringement and violations
21 of the DMCA. Moreover, plaintiff has sought these documents from defendants, and
22 their anemic production raises questions regarding completeness that can only be
23 confirmed by pursuing discovery from Beats.

24 **c. DOCUMENT REQUEST NO. 4 ("All**
25 **COMMUNICATIONS with MusicNet, Inc. (d/b/a**
26 **MediaNet Digital, Inc.) (or anyone acting on its behalf**
27 **regarding Korean Music that includes or relates to any**
28 **of the WORKS.")**

Plaintiff alleges that, without proper authorization, defendants, via a third party
(MediaNet), "distributed to the Beats Music service (a California-based online music

1 service) these sound recordings,” which were then made available to American
2 consumers. (Ex. 7 ¶ 2) Consequently, communications between Beats and third-
3 party MediaNet are relevant to this lawsuit. Furthermore, communications between
4 MediaNet and Beats cannot be obtained from defendants.

5 **d. DOCUMENT REQUEST NO. 5 (“DOCUMENTS**
6 **sufficient to evidence any payments received or made in**
7 **connection with the WORKS since March 6, 2012.)**

8 **&**

9 **DOCUMENT REQUEST NO. 13 (“All DOCUMENTS**
10 **relating to trial periods, promotions, or give-aways of**
11 **the WORKS.”)**

12 **&**

13 **DOCUMENT REQUEST NO. 14 (“DOCUMENTS**
14 **sufficient to indicate the number of downloads or**
15 **streamings of the WORKS since March 6, 2012.”)**

16 Revenue obtained from the works at issue (or foregone because of free trials) is
17 relevant to determining what money was diverted from plaintiff by defendants’
18 improper distribution of the works at issue. There is no indication that Beats cannot
19 easily determine revenues, promotions and downloads associated with certain songs
20 from slightly over a dozen Korean artists.

21 **e. DOCUMENT REQUEST NO. 6 (“All**
22 **COMMUNICATIONS with CJ E&M, Inc. (or anyone**
23 **acting on its behalf) regarding this case.”)**

24 **&**

25 **DOCUMENT REQUEST NO. 7 (“All**
26 **COMMUNICATIONS with CJ E&M America, Inc. (or**
27 **anyone acting on its behalf) regarding this case.”)**

28 **&**

DOCUMENT REQUEST NO. 10 (“All
COMMUNICATIONS with MusicNet, Inc. (d/b/a

1 **MediaNet Digital, Inc.) (or anyone acting on its behalf)**
2 **regarding this case.”)**

3 Communications regarding this case are obviously relevant to this case.

4 **f. DOCUMENT REQUEST NO. 8 (“All**
5 **COMMUNICATIONS with CJ E&M, Inc. (or anyone**
6 **acting on its behalf) in which it represented that it was**
7 **the exclusive distributor or content aggregator or**
8 **curator or programmer of Korean pop music in the**
9 **United States.”)**

10 **&**

11 **DOCUMENT REQUEST NO. 9 (“All**
12 **COMMUNICATIONS with CJ E&M America, Inc. (or**
13 **anyone acting on its behalf) in which it represented that**
14 **it was the exclusive distributor or content aggregator or**
15 **curator or programmer of Korean pop music in the**
16 **United States.”)**

17 Given plaintiff’s allegation that it is the exclusive distributor of the works at
18 issue in the United States, defendants’ representations to the contrary are relevant to
19 this lawsuit. As noted above, plaintiff has already sought these documents from
20 defendants.

21 **g. DOCUMENT REQUEST NO. 11 (“Digital files that**
22 **contain recordings of the WORKS.”)**

23 **&**

24 **DOCUMENT REQUEST NO. 12 (“All DOCUMENTS**
25 **(including any documents identifying the International**
26 **Standard Recording Codes, Universal Product Codes or**
27 **copyright information) and digital files provided by**
28 **MusicNet, Inc. (d/b/a MediaNet Digital, Inc.), CJ E&M,**
 Inc. or CJ E&M America, Inc. in connection with the
 WORKS.”)

 This case involves copyright management information (e.g., International
Standard Recording Codes, Universal Product Codes) that may have been digitally

1 embedded in music files. (Ex. 7 ¶¶ 16-20) Consequently, these documents are
2 relevant to this case.

3 **V. CONCLUSION**

4 For the reasons stated above, the Court should compel Beats to produce
5 documents responsive to the subpoena within seven calendar days of the Court's
6 order.

7
8 DATED: November 4, 2015

BROWNE GEORGE ROSS LLP

Keith J. Wesley

Andrew A. August

Jonathan L. Gottfried

11
12 By /s/ Jonathan Gottfried

Jonathan Gottfried

13 Attorneys for Plaintiff

14 DFSB Kollektive Co. Ltd.
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1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO**

3 At the time of service, I was over 18 years of age and not a party to this action. I am
4 employed in the County of San Francisco, State of California. My business address is 177 Post
Street, Suite 700, San Francisco, CA 94108.

5 On November 4, 2015, I served true copies of the following document(s) described as
6 **PLAINTIFF DFSB KOLLECTIVE CO. LTD'S MOTION TO COMPEL THIRD-PARTY**
7 **BEATS MUSIC, LLC TO PRODUCE DOCUMENTS IN RESPONSE TO SUBPOENA** on
the interested parties in this action as follows:

8 **SEE ATTACHED SERVICE LIST**

9 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** On November 4, 2015 I caused a
copy of the document(s) to be sent from e-mail address lpennywell@bgrfirm.com to the persons at
the e-mail addresses listed in the Service List. I sent this transmission at ____ a.m./p.m.. I did
10 not receive, within a reasonable time after the transmission, any electronic message or other
indication that the transmission was unsuccessful.

11 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the
12 document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case
who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case
13 who are not registered CM/ECF users will be served by mail or by other means permitted by the
court rules.

14 I declare under penalty of perjury under the laws of the United States of America that the
15 foregoing is true and correct and that I am employed in the office of a member of the bar of this
Court at whose direction the service was made.

16 Executed on November 4, 2015, at San Francisco, California.

17
18 /s/ Lorrina I. Pennywell
19 LORRINA I. PENNYWELL

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SERVICE LIST
DFSB KOLLECTIVE, CO. LTD., v. CJ E&M, INC., et al.
2:15-cv-01650-SVW-FFM

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